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SHELEHEDA, JAMES R				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/077,282

**Applicant(s)**

MCFADDIN ET AL.

**Examiner**

JAMES SHELEHEDA

**Art Unit**

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 12/01/08 have been fully considered but they are not persuasive.

On page 15 of applicant's response, applicant indicates that as defined in applicant's specification, the flow control system can pass a composite information stream by halting the flow of the media signal to the encoder, so as to instead send an alternate stored data source, such as an ad (see applicant's response at page 15, lines 2-4).

Eldering explicitly discloses a system wherein the media signal (program stream) is halted (interrupted) to instead send an advertisement (see Figs. 2-5 and column 4, lines 31-38, lines 53-63, column 5, lines 1-9 and lines 10-19). Eldering describes four separate methods of inserting the advertisements into the programs, dependent upon bit rate and bandwidth needs, all of which meet the current claim limitations. As can plainly be seen in the associated figures (2-5), and explicitly stated by Eldering (column 4, lines 31-38, lines 53-63) the program streams are *interrupted* and the bandwidth is then used to instead transmit advertisements which have been inserted into the program streams. This action clearly meets the claim limitations of "flow control", as the flow of the media program is halted to allow transmission of the associated ad. The resulting output stream comprises a "composite" stream as it is made up of both the original program and the newly inserted ads.

As to the "media player encoder for encoding into an encoded composite stream for the media player", it is noted that Murphy was relied upon to disclose that it was well known to encode a video stream for different subscriber's system requirements (column 9, lines 20-56).

It is the combination of Eldering and Murphy which discloses the flow control system (as taught by Eldering) and the encoder receiving the video stream and encoding it for media player programs (as taught by Murphy). Therefore, applicant's arguments are not convincing.

### ***Claim Objections***

2. Claim 60 is objected to because of the following informalities:

Claim 60 is listed with an incorrect status identifier. As the claim was not amended in the most recent response, the status identifier should be changed from "currently amended" to --previously presented--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-7, 10, 12, 13, 20-22, 26, 27, 30, 33, 34, 36, 38-48, 54-59, 62 and 65-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al. (Eldering) (6,704,930) (of record) in view of Murphy (6,564,380) (of record).

As to claim 1, while Eldering discloses a system (Fig. 10 and 11), comprising:  
a media delivery device having a media device driver associated therewith  
(column 8, lines 15-20 and column 3, line 6–column 4, line 30);

a flow control system (AIS, 201) being independent of and communicating with said media delivery device (203, Fig. 11) and with a stored data source (231; column 9, lines 26-36), wherein said flow control system is configured to receive data from said media delivery device and from said stored data source (column 9, lines 37-43), and to control the flow of said media delivery device data and said stored data source data (column 9, lines 37-52), so as to pass a controlled flow of data as a composite information stream to an encoder for encoding into an encoded composite information stream for delivery (transmission equipment required to format/transmit the stream over the transmission network; column 8, lines 23-26 and column 9, lines 37-62), the encoded composite information stream being made available for delivery to a media player (to playback the media; column 10, lines 27-34), he fails to specifically disclose a media player encoder for encoding the stream for the media player for delivery over the Internet.

In an analogous art, Murphy discloses a content distribution system (Fig. 5) wherein video content is passed to a media player encoder for encoding a video stream

for a media player (column 9, lines 38-56) and then transmitted for delivery over the Internet (column 9, lines 39-56 and column 6, line 64-column 7, line 60) for the typical benefit of enabling users to receive desired video content over the Internet (column 1, lines 17-41) while ensuring that a wide audience of viewers can successfully access and view the video (column 9, lines 21-38).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering's system to include a media player encoder for encoding the stream for the media player for delivery over the Internet, as taught in combination with Murphy, for the typical benefit of enabling users to receive desired video content over the Internet while ensuring that a wide audience of viewers can successfully access and view the video.

As to claim 4, Eldering and Murphy disclose wherein said media delivery device provides live data (column 3, lines 41-46).

As to claim 5, Eldering and Murphy disclose wherein said media delivery device provides a television broadcast (column 3, lines 41-55).

As to claim 6, Eldering and Murphy disclose wherein said stored data is downloaded from a web server and stored on a computer linked to said encoder (column 9, lines 5-35 and column 7, lines 56-65).

As to claim 7, Eldering and Murphy disclose wherein said stored data includes commercial advertisements (column 9, lines 26-35).

As to claim 10, Eldering and Murphy disclose wherein said flow control system provides updated information about said media delivery device data (column 9, lines 37-52).

As to claim 12, Eldering and Murphy disclose wherein said flow control system is located in an electronic unit that is physically separate from said media delivery device (column 8, lines 15-20).

As to claim 13, Eldering and Murphy disclose wherein said flow control system is a software module (column 10, lines 7-27), and further comprising a data control manager software module for passing control instructions to said flow control system (column 10, lines 7-27).

As to claim 20, Eldering and Murphy disclose wherein said flow control system monitors said media delivery device data for a control signal (indicating program information, target audience and ad opportunities; column 8, line 55-column 9, line 4), and wherein said flow control system signals a data control manager of receipt of said control signal (column 9, lines 37-43 and column 10, lines 7-27), and wherein said data

control manager controls said flow control system in response to said control signal (column 10, lines 7-27).

As to claim 21, Eldering and Murphy disclose wherein said control signal is an elapsed time (column 8, lines 60-62).

As to claim 22, Eldering and Murphy disclose wherein said control signal is embedded in said media delivery device data (column 8, lines 54-62).

As to claim 26, Eldering and Murphy disclose wherein said media delivery device data is a television broadcast (column 3, lines 41-55).

As to claim 27, Eldering and Murphy disclose wherein said stored data is an advertisement (column 9, lines 26-35).

As to claim 30, while Eldering discloses a system (Fig. 10 and 11), comprising:  
a plurality of data sources (column 8, lines 15-24 and column 3, line 6—column 4, line 30); and

a flow control system (AIS, 201) configured to:  
receive data from two or more of said plurality of data sources (column 9, lines 37-43) and one or more commands from a data control manager (column 10, lines 7-27), to selectively control the flow of data received from said plurality of data sources



(column 9, lines 37-52) in response to said one or more commands from said data control manager (column 10, lines 7-27), so as to pass a controlled flow of data as a composite information stream to an encoder for encoding into an encoded composite information stream for delivery (transmission equipment required to format/transmit the stream over the transmission network; column 8, lines 23-26 and column 9, lines 37-62) to a media player (to playback the media; column 10, lines 27-34), he fails to specifically disclose a media player encoder for encoding the stream for the media player for delivery over the Internet.

In an analogous art, Murphy discloses a content distribution system (Fig. 5) wherein video content is passed to a media player encoder for encoding a video stream for a media player (column 9, lines 38-56) and then transmitted for delivery over the Internet (column 9, lines 39-56 and column 6, line 64-column 7, line 60) for the typical benefit of enabling users to receive desired video content over the Internet (column 1, lines 17-41) while ensuring that a wide audience of viewers can successfully access and view the video (column 9, lines 21-38).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering's system to include a media player encoder for encoding the stream for the media player for delivery over the Internet, as taught in combination with Murphy, for the typical benefit of enabling users to receive desired video content over the Internet while ensuring that a wide audience of viewers can successfully access and view the video.

As to claim 33, Eldering and Murphy disclose wherein at least one of said plurality of data sources is a live data source (column 3, lines 41-46) and at least one of said data sources is a stored data source (column 9, lines 37-43), and wherein said flow control system is configured to communicate with a data control manager to selectively pass, in response to commands from said data control manager (column 10, lines 7-27), data from at least one of said live data sources and from one or more of said at least one stored data sources (column 9, lines 37-52).

As to claim 34, Eldering and Murphy disclose an encoder configured to receive and transform said composite information stream into an encoded composite information stream (column 8, lines 23-26 and column 9, lines 37-65).

As to claim 36, Eldering and Murphy disclose wherein said stored data is downloaded from a web server and stored on a computer linked to said encoder (column 9, lines 5-35 and column 7, lines 56-65).

As to claim 38, Eldering and Murphy disclose wherein at least one of said plurality of data sources provides live data (column 3, lines 41-46).

As to claim 39, Eldering and Murphy disclose wherein at least one of said plurality of data sources includes a video feed (column 3, lines 41-46).

As to claim 40, Eldering and Murphy disclose wherein said video feed is a television broadcast (column 3, lines 41-55).

As to claim 41, Eldering and Murphy disclose wherein at least one of said plurality of data sources provides stored data (column 9, lines 37-43),

As to claim 42, Eldering and Murphy disclose wherein said stored data includes commercial advertisements (column 9, lines 26-35).

As to claim 43, Eldering and Murphy disclose wherein said stored data is located in a file that has been compressed according to motion picture experts group standards (column 8, lines 6-13 and column 4, lines 30-52 and column 10, lines 32-34).

As to claim 44, Eldering and Murphy disclose wherein said stored data is downloaded from a web server and stored on a computer linked to said encoder (column 9, lines 5-35 and column 7, lines 56-65).

As to claim 45, Eldering and Murphy disclose wherein said stored data includes commercial advertisements (column 9, lines 26-35).

As to claim 46, while Eldering discloses a system (Fig. 10 and 11), comprising:

a plurality of data sources (column 8, lines 15-24 and column 3, line 6—column 4, line 30); and

a flow control system (AIS, 201) which receives data from said plurality of data sources (column 9, lines 37-43) and selectively passes data from said plurality of data sources as a composite information stream to an encoder (column 9, lines 37-52) for encoding into an encoded composite information stream for delivery (transmission equipment required to format/transmit the stream over the transmission network; column 8, lines 23-26 and column 9, lines 37-62) to a media player (to playback the media; column 10, lines 27-34), he fails to specifically disclose a media player encoder for encoding the stream for the media player for delivery over the Internet.

In an analogous art, Murphy discloses a content distribution system (Fig. 5) wherein video content is passed to a media player encoder for encoding a video stream for a media player (column 9, lines 38-56) and then transmitted for delivery over the Internet (column 9, lines 39-56 and column 6, line 64—column 7, line 60) for the typical benefit of enabling users to receive desired video content over the Internet (column 1, lines 17-41) while ensuring that a wide audience of viewers can successfully access and view the video (column 9, lines 21-38).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering's system to include a media player encoder for encoding the stream for the media player for delivery over the Internet, as taught in combination with Murphy, for the typical benefit of enabling users to receive desired

video content over the Internet while ensuring that a wide audience of viewers can successfully access and view the video.

As to claim 47, while Eldering discloses a method (Fig. 10 and 11), comprising:

obtaining data from a plurality of data sources (column 8, lines 15-24 and column 3, line 6—column 4, line 30);

receiving control signals from a flow control system interposed between said plurality of data sources and an encoder (column 9, lines 37-52);

selectively passing data from said plurality of data sources to said encoder as a composite information stream in response to said received control signals (column 9, lines 37-65);

transforming, by said encoder, said composite information stream into an encoded composite information stream (formatting the stream for transmission over the corresponding network; column 9, line 44—column 10, line 1), the composite information stream being made available for delivery to the media player (column 9, line 44—column 10, line 1 and column 10, lines 27-34); and

transmitting said encoded composite information stream to a media player (column 9, line 44—column 10, line 1 and column 10, lines 27-34), he fails to specifically disclose a media player encoder for encoding the stream for the media player for delivery over the Internet.

In an analogous art, Murphy discloses a content distribution system (Fig. 5) wherein video content is passed to a media player encoder for encoding a video stream

for a media player (column 9, lines 38-56) and then transmitted for delivery over the Internet (column 9, lines 39-56 and column 6, line 64-column 7, line 60) for the typical benefit of enabling users to receive desired video content over the Internet (column 1, lines 17-41) while ensuring that a wide audience of viewers can successfully access and view the video (column 9, lines 21-38).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering's system to include a media player encoder for encoding the stream for the media player for delivery over the Internet, as taught in combination with Murphy, for the typical benefit of enabling users to receive desired video content over the Internet while ensuring that a wide audience of viewers can successfully access and view the video.

As to claim 48, Eldering discloses  
designating an order of transmission of data from two or more of said plurality of data sources (column 9, lines 36-52);  
inserting said data into said composite information stream in said designated order (column 9, lines 36-52); and  
passing said composite information stream to said encoder (column 9, lines 36-65).

As to claim 54, Eldering discloses wherein at least one of said plurality of data sources provides live data (column 3, lines 41-46).

As to claim 55, Eldering discloses wherein said live data is a video feed (column 3, lines 41-65).

As to claim 56, Eldering discloses wherein said video feed is a television broadcast (column 3, lines 41-55).

As to claim 57, Eldering discloses wherein at least one of said plurality of data sources provides stored data (column 9, lines 37-43).

As to claim 58, Eldering discloses wherein said stored data is located in a file that has been compressed according to motion picture experts group standards (column 8, lines 6-13 and column 4, lines 30-52 and column 10, lines 32-34).

As to claim 59, while Eldering discloses a method (Fig. 10 and 11), comprising:  
capturing a first data set (broadcast programming column 8, lines 15-24 and column 3, line 6—column 4, line 30);

receiving a request for transmission of at least a second data set (request to select and include ads; column 8, line 54—column 9, line 25);

designating an order of transmission of the first and at least said second data set (column 9, lines 36-52); and

controlling the flow of data from said first data set and at least said second data set in accordance with said designated order (column 9, lines 36-52), so as to pass a controlled flow of data as a composite information stream to an encoder for encoding into an encoded composite information stream for delivery (transmission equipment required to format/transmit the stream over the transmission network; column 8, lines 23-26 and column 9, lines 37-62) to a media player (to playback the media; column 10, lines 27-34), he fails to specifically disclose a media player encoder for encoding the stream for the media player for delivery over the Internet.

In an analogous art, Murphy discloses a content distribution system (Fig. 5) wherein video content is passed to a media player encoder for encoding a video stream for a media player (column 9, lines 38-56) and then transmitted for delivery over the Internet (column 9, lines 39-56 and column 6, line 64-column 7, line 60) for the typical benefit of enabling users to receive desired video content over the Internet (column 1, lines 17-41) while ensuring that a wide audience of viewers can successfully access and view the video (column 9, lines 21-38).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering's system to include a media player encoder for encoding the stream for the media player for delivery over the Internet, as taught in combination with Murphy, for the typical benefit of enabling users to receive desired video content over the Internet while ensuring that a wide audience of viewers can successfully access and view the video.



As to claim 62, Eldering and Murphy disclose wherein said composite information stream is to be experienced using a video monitor (column 10, lines 27-34).

As to claim 65, Eldering and Murphy disclose wherein at least one of said data sets includes live data (column 3, lines 41-46).

As to claim 66, Eldering and Murphy disclose wherein a source of said live data is a video feed (column 3, lines 41-65).

As to claim 67, Eldering and Murphy disclose wherein said video feed is a television broadcast (column 3, lines 41-55).

As to claim 68, Eldering and Murphy disclose wherein at least one of said data sets delivers stored data (column 9, lines 37-43).

As to claim 69, Eldering and Murphy disclose wherein said stored data is located in a file that has been compressed according to motion picture experts group standards (column 8, lines 6-13 and column 4, lines 30-52 and column 10, lines 32-34).

5. Claims 11, 14-18, 28, 35, 37, 49-51 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930 and Murphy and further in view of Eldering et al. (Eldering) (US 2002/0026638 A1) (of record).

As to claim 11, while Eldering '930 and Murphy disclose stored data, they fail to specifically disclose wherein the data is in an audio video interleaved file.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein the advertisements are in an audio video interleaved (AVI) file (paragraph 37) for the typical benefit of utilizing an industry standard Internet readable format for distribution and display of the video (paragraph 37).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include wherein the data is in an audio video interleaved file, as taught by Eldering '638, for the typical benefit of taking advantage of and conforming to existing industry standards.

As to claim 14, while Eldering '930 and Murphy disclose a flow control system and information related to a desired order of data delivery from said stored data source (column 9, lines 36-52), they fail to specifically disclose a queue for passing information related to the desired order.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein an adjustable queue is created to indicate the desired order for advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control over the scheduling and the viewing of upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include a queue for

passing information related to the desired order, as taught by Eldering '638, so as to provide more control over the scheduling of upcoming advertisements.

As to claim 15, Eldering '930, Murphy and Eldering '638 disclose wherein said data control manager passes said control instructions via the Internet (see Eldering '638 at paragraph 62 and 66).

As to claim 16, Eldering '930, Murphy and Eldering '638 disclose wherein said queue is remotely alterable (see Eldering '638 at paragraph 62 and 66).

As to claim 17, Eldering '930, Murphy and Eldering '638 disclose wherein said queue is altered by transferring information over a computer network (see Eldering '638 at paragraph 62 and 66).

As to claim 18, Eldering '930, Murphy and Eldering '638 disclose wherein said queue is altered by downloading information from the Internet (see Eldering '638 at paragraph 62 and 66).

As to claim 28, Eldering '930, Murphy and Eldering '638 disclose wherein said queue is an advertisement queue (see Eldering '638 at paragraph 62 and 65).

As to claims 35 and 37, while Eldering '930 and Murphy disclose a flow control system and information related to a desired order of data delivery from said stored data source (column 9, lines 36-52), they fail to specifically disclose an electronic queue.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein an electronic queue is created to indicate the desired order for advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control over the scheduling and the viewing of upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include an electronic queue, as taught by Eldering '638, so as to provide more control over the scheduling of upcoming advertisements.

As to claim 49, while Eldering '930 and Murphy disclose transferring data sets in accordance with a designated transmission order to said flow control system (column 9, lines 36-52), they fail to specifically disclose placing a plurality of data identifiers in an order and transferring names of data sets that are associated with said data identifiers in said data identifier order.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein an adjustable queue is created to indicate the desired order for advertisement display (Fig. 3; paragraph 65) by placing a plurality of data identifiers in order within the queue (paragraph 46 and 65) and transferring names of data sets that

are associated with said data identifiers in said data identifier order (paragraph 63 and 65) for the benefit of allowing more control over the scheduling and the viewing of upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include placing a plurality of data identifiers in an order and transferring names of data sets that are associated with said data identifiers in said data identifier order, as taught by Eldering '638, so as to provide more control over the scheduling of upcoming advertisements.

As to claim 50, Eldering '930, Murphy and Eldering '638 disclose loading a named data set into an encoder (see Eldering '930 at column 9, lines 37-52); and transmitting said named data set to a media player (see Eldering '930 at column 10, lines 27-34).

As to claim 51, Eldering '930, Murphy and Eldering '638 disclose passing said data identifiers to said flow controller (see Eldering '930 at column 9, lines 37-52) in said data identifier order (see Eldering '638 at paragraph 65).

As to claim 64, while Eldering '930 and Murphy disclose a flow control system and designating a predetermined data transmission order (column 9, lines 36-52), they fail to specifically disclose an electronic queue.

In an analogous art, Eldering '638 discloses a system for inserting commercials (paragraph 21) wherein an electronic queue is created to indicate the desired order for advertisement display (Fig. 3; paragraph 65) for the benefit of allowing more control over the scheduling and the viewing of upcoming advertisements (paragraph 74 and 50).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include an electronic queue, as taught by Eldering '638, so as to provide more control over the scheduling of upcoming advertisements.

6. Claims 2, 3, 24, 25, 29, 31, 32, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930 and Murphy and further in view of Aras et al. (Aras) (5,872,588) (of record).

As to claim 24, while Eldering '930 and Murphy disclose receiving a controlled data flow of data passed to said encoder from said stored data source by said flow controller (controlled insertion of advertisements; column 9, lines 36-52), they fail to specifically disclose a software log of events, said software log being created in response to said data flow, said software log containing a record of said data flow.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which will create a software log of events (column 7, lines 14-29) in response to received video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) and which contains a record of the received video/data streams (column 7, lines 6-29

and column 13, line 25-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include a software log of events, said software log being created in response to said data flow, said software log containing a record of said data flow, as taught by Aras, for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 25, Eldering '930, Murphy and Aras disclose wherein said software log is transferable over the Internet (see Aras at column 26, lines 44-62 and Eldering '930 at column 7, line 56-column 8, line 5).

As to claim 29, Eldering '930, Murphy and Aras disclose wherein said software log is an advertising log (see Aras at column 11, table IV, column 8, lines 33-67).

As to claim 2 and 31, while Eldering '930 and Murphy disclose a media player communicating with said encoder to receive said composite information stream from said encoder (to playback the media; column 10, lines 27-34), they fail to specifically disclose an identifier recorder which creates a record of the passage of a designated type of data to a media player and an identifier collector which enters a plurality of said created records into a common data file.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which will create a software log of events (column 7, lines 14-29) in response to received video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by classifying the received data with an identifier (column 7, lines 31-67 and column 13, lines 34-51), records the passage of a designated type of data to the display (column 13, lines 34-61) and entering the data into a collection table (column 3, line 59-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include an identifier recorder which creates a record of the passage of a designated type of data to a media player and an identifier collector which enters a plurality of said created records into a common data file, as taught by Aras, for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 3 and 32, Eldering '930, Murphy and Aras disclose wherein said designated type of identifier identifies a commercial advertisement (see Aras at column 8, lines 33-67) and said common data file is an advertising log (see Aras at column 11, table IV).

As to claim 60, while Eldering '930 and Murphy disclose delivering said controlled flow to a media player (to playback the media; column 10, lines 27-34), they fail to



specifically disclose recording in a common data file the passage of a designated type of data to a media player.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which will create a software log of events (column 7, lines 14-29) in response to received video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by classifying the received data with an identifier (column 7, lines 31-67 and column 13, lines 34-51), records the passage of a designated type of data to the display (column 13, lines 34-61) and entering the data into a collection table (column 3, line 59-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include recording in a common data file the passage of a designated type of data to a media player, as taught in combination with Aras, for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 61, Eldering '930, Murphy and Aras disclose wherein said designated type of identifier identifies a commercial advertisement (see Aras at column 8, lines 33-67) and said common data file is an advertising log (see Aras at column 11, table IV).

7. Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930, Murphy and Eldering '638 and further in view of Aras.

As to claim 52, while Eldering '930 and '638 and Murphy disclose a media player communicating with said encoder to receive said composite information stream from said encoder (to playback the media; column 10, lines 27-34), they fail to specifically disclose recording in a common data file the passage of an identifier associated with a designated type of named data set to said encoder.

In an analogous art, Aras discloses a video distribution system (Fig. 1A) which will create a software log of events (column 7, lines 14-29) in response to received video/data streams (column 7, lines 6-29 and column 13, line 25-column 14, line 24) by classifying the received data with an identifier (column 7, lines 31-67 and column 13, lines 34-51), records the passage of a designated type of data to the display (column 13, lines 34-61) and entering the data into a collection table (column 3, line 59-column 14, line 24) for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and '638 and Murphy to include recording in a common data file the passage of an identifier associated with a designated type of named data set to said encoder, as taught in combination with Aras, for the typical benefit of better monitoring and identifying programming and advertisements viewed by subscribers.

As to claim 53, Eldering '930, Murphy Eldering '638 and Aras disclose wherein said designated type of identifier is a commercial advertisement (see Aras at column 8,

lines 33-67) and said common data file is an advertising log (see Aras at column 11, table IV).

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930 and Murphy in view of Schmelzer et al. (Schmelzer) (5,424,770) (of record).

As to claim 23, while Eldering '930 and Murphy disclose a control signal identifying where to insert content (column 8, lines 54-62), they fail to specifically disclose wherein the control signal is an audible tone.

In an analogous art, Schmelzer discloses commercial insertion for a video distribution system (column 3, lines 42-62) wherein the incoming signal is monitored for an audio cue tone (column 12, lines 20-34) to indicate the beginning of a commercial break (column 12, lines 20-34) for the typical benefit of utilizing an industry standard method of indicating commercial break (column 12, lines 20-23).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include wherein the control signal is an audible tone, as taught by Schmelzer, for the typical benefit of utilizing an industry standard method of indicating commercial break.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930 and Murphy in view of Hooks et al. (Hooks) (6,169,542) (of record).

As to claim 8, while Eldering and Murphy disclose wherein said flow control system will output advertisements for display, they fail to specifically disclose allowing a user to obtain information about content displayed in said commercial advertisements.

In an analogous art, Hooks discloses a content distribution system (Fig. 1) wherein user's are presented with the option to obtain additional information about content displayed in said commercial advertisements (Fig. 9; column 11, lines 44-65) for the typical benefit of conveniently providing supplemental information desired by consumers (column 1, line 36-column 2, line 35).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include allowing a user to obtain information about content displayed in said commercial advertisements, as taught in combination with Hooks, for the typical benefit of conveniently providing supplemental information desired by consumers.

As to claim 9, Eldering '930, Murphy and Hooks disclose wherein said flow control system allows a user to order products or services that are associated with said content (see Hooks at Fig. 9; column 11, lines 44-65).

10. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930 and Murphy in view of Ludtke (6,154,206) (of record).

As to claim 63, while Eldering '930 and Murphy disclose wherein said composite information stream is to be experienced using an output device (column 10, lines 27-34), they fail to specifically disclose a personal digital assistant (PDA).

In an analogous art, Ludtke discloses a content distribution system (column 4, lines 24-56) wherein the output device for display may include a personal digital assistant (column 5, line 62-column 6, line 12) for the benefit of providing the user with numerous options for media display (column 5, line 62-column 6, line 12) and the convenience of a portable display device.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930 and Murphy to include wherein the output device is a personal digital assistant (PDA), as taught by Ludtke, for the benefit of providing the user with numerous options for media display and the convenience of a portable display device.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering '930, Murphy and Eldering '638 in view of Kozdon (6,385,192) (of record).

As to claim 19, while Eldering '930, Murphy and Eldering '638 disclose altering the queue based upon received signals, they fail to specifically disclose pressing buttons on a telephone key pad.

In an analogous art, Kozdon discloses a communication system (Fig. 3) wherein keypad buttons on a telephone are utilized to generate signals for transmission over the Internet (column 4, lines 24-33) for controlling a remote computer system (column 1,

lines 22-35) for the typical benefit of allowing remote computer access through widely distributed and convenient telephone systems.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Eldering '930, Murphy and Eldering '638 to include pressing buttons on a telephone key pad, as taught by Kozdon, for the typical benefit of allowing widely known and utilized telephones to conveniently access a remote computer system.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the

required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Signature: \_\_\_\_\_

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/  
Examiner, Art Unit 2424

JS